

# United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Charles P. Kocoras	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	98 C 7909	DATE	8/7/2000
CASE TITLE	Shapo vs. Engle et al		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

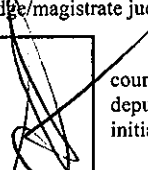

## MOTION:

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## DOCKET ENTRY:

- (1) ☐ Filed motion of [ use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due \_\_\_\_\_.
- (3) ☐ Answer brief to motion due \_\_\_\_\_. Reply to answer brief due \_\_\_\_\_.
- (4) ☐ Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (7) ☐ Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]  
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] **ENTER MEMORANDUM OPINION:** The Court denies Plaintiffs' motion (Doc 264-1) for leave to file an amended Count XIII.

- (11) ☒ [For further detail see order attached to the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input checked="" type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.	SCT 	courtroom deputy's initials	ED-7 <b>FILED FOR DOCKETING</b> <b>00 AUG -7 PM 2: 03</b>	number of notices	<b>Document Number</b>  269
				88-00 date docketed	
				 docketing deputy initials	
				date mailed notice	
				mailing deputy initials	

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

NATHANIEL S. SHAPO, Director of Insurance  
of the State of Illinois, solely in his capacity as  
statutory and court-affirmed Liquidator of Coronet  
Insurance Company, Crown Casualty Company  
and National Indemnity Company,

Plaintiff,

vs.

CLYDE WM. ENGLE; TIMOTHY LOWELL  
BROWN; LEE N. MORTENSON; EVERETT A.  
SISSON; ROBERT SPILLER; GLENN J.  
KENNEDY; RICHARD A. LEONARD;  
PAUL HOWARD ALBRITTON JR.; PETER  
HENRY BERGMAN; TELCO CAPITAL  
CORPORATION; RDIS CORPORATION;  
WISCONSIN REAL ESTATE INVESTMENT  
TRUST; HICKORY FURNITURE  
CORPORATION; INDIANA FINANCIAL  
INVESTORS, INC.; SUNSTATES CORPORATION;  
NORMANDY INSURANCE AGENCY, INC.;  
SEW SIMPLE SYSTEMS, INC.; SUNSTATES  
EQUITIES, INC.; SUNSTATES FINANCIAL  
SERVICES, INC.; ALBA-WALDENSIAN  
HOLDINGS COMPANY; RMHC (DELAWARE),  
INC.; WELLCO HOLDINGS COMPANY; and  
SUNSTATES REALTY GROUP, INC.,

Defendants.

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THE SPRINGS-ILLINOIS, INC.,

Plaintiff-Intervenor,

vs.

GLENN J. KENNEDY; SEW SIMPLE SYSTEMS,  
INC., and SUNSTATES REALTY GROUP, INC.,

Defendants.

DOCKETED  
AUG 8 2000

98 C 7909

MEMORANDUM OPINION

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CHARLES P. KOCORAS, District Judge:

This matter comes before the Court on Plaintiff's motion for leave to file amended Count XIII. For the reasons set forth below, the Court denies Plaintiff's motion.

### DISCUSSION

This Court has set forth the factual background of this case at length in previous decisions in this matter. See Shapo v. Engle, No. 98 C 7909, 1999 WL 446853 (N.D. Ill. June 11, 1999) (Kocoras, J.) (denying certain Defendants' motion for advancement of expenses and costs); Shapo v. Engle, No. 98 C 7909, 1999 WL 528528 (N.D. Ill. July 13, 1999) (Kocoras, J.) (dismissing Plaintiff's Second Amended Complaint); Shapo v. Engle, No. 98 C 7909 (N.D. Ill. Nov. 10, 1999). For purposes of this motion, the Court assumes familiarity with those facts.

This Court previously denied Plaintiff Nathaniel S. Shapo's ("Shapo") motion for leave to amend his complaint to add Count XIII against new Defendant, the Bank of Lincolnwood ("BOL"), finding that Shapo had not stated his allegations of BOL's involvement in a RICO scheme to defraud with sufficient particularity. See Shapo v. Engle, No. 98 C 7909 (N.D. Ill. June 30, 2000). Presently, Shapo seeks leave to file an amended Count XIII, maintaining that he has now stated with particularity his claim that BOL is a key member of the alleged conspiracy to defraud the three Insurance companies of which Shapo is the statutory and court-affirmed Liquidator.

Although Shapo has now amended his complaint to allege that Howard Friedman and David Blears, along with Engle's wife and daughter, were also members of BOL's Board of Directors, the Court remains unpersuaded that Shapo's claims against BOL are alleged with sufficient particularity. Shapo's amended Count XIII remains substantially the same as his initial one. The amended Count XIII continues to focus on and allege illegal actions directed by Engle and seeks to impute Engle's actions to BOL. Other than through Engle's individual actions, through which he directed BOL in common banking activities, Shapo does not allege that BOL as an entity knowingly participated in a conspiracy to defraud. "Mere allegations of fraud, corruption, or conspiracy, averments to conditions of mind, or referrals to plans and schemes are too conclusional to satisfy the particularity requirement, no matter how many times such accusations are repeated." Flynn v. Merrick, 881 F.2d 446, 449 (7th Cir. 1989), quoting Hayduck v. Lanna, 775 F.2d 441, 444 (1st Cir. 1985). Until Plaintiff can allege BOL's participation through more than Engle's mere membership on its Board of Directors, the Court will deny Plaintiff leave to file his Count XIII.

### CONCLUSION

For the reasons set forth above, the Court denies Plaintiff's motion for leave to file an amended Count XIII.



Charles P. Kocoras  
United States District Judge

Dated: 8/7/2000